

AMENDED IN ASSEMBLY APRIL 12, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1113

Introduced by Assembly Member Brownley
(Principal coauthor: Senator Migden)

February 23, 2007

An act to amend Section 14007.9 of the Welfare and Institutions Code, and to amend Section 1 of Chapter 1088 of the Statutes of 2002, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1113, as amended, Brownley. Medi-Cal: eligibility.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. ~~Existing~~ *The Medi-Cal program is partially governed and funded by federal Medicaid provisions.*

Existing law, until September 1, 2008, and subject to the receipt of federal financial participation, requires the department to adopt a federal option under which any employed individual *with a disability* who meets specified income and resource requirements, shall be eligible for benefits under the Medi-Cal program, subject to the payment of premiums. These provisions are repealed on January 1, 2009.

This bill would delete the inoperative and repeal dates of these provisions and thereby, ~~extending~~ *would extend* their operation indefinitely.

This bill would provide for additional resource exemptions in determining Medi-Cal eligibility under this program. It would also apply this program to individuals who would be eligible for Medi-Cal

under these provisions but who are temporarily not working, for an eligibility period for up to 18 months.

Because counties are required to make Medi-Cal eligibility determinations and this bill would extend the expansion of Medi-Cal eligibility, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1 of Chapter 1088 of the Statutes of 2002
2 is amended to read:

3 Section 1. The Legislature finds and declares all of the
4 following:

5 (a) Historically, federal programs for adults with disabilities
6 have encouraged dependency on income supports and have created
7 barriers to employment and economic self-sufficiency. Even in
8 strong economic times, adults with disabilities have had limited
9 options and faced major barriers to achieve economic
10 self-sufficiency, resulting in prolonged reliance upon public
11 assistance programs and an unacceptably high unemployment rates
12 statewide.

13 (b) Federal laws enacted during the 1990's offered significant
14 public policies and fiscal incentives designed to assist states to
15 restructure workforce development programs into integrated
16 workforce investment systems that will respond to the employment,
17 training, and education needs of its citizens.

18 (c) Since 1998, employment-focused reforms for adults with
19 disabilities in the workforce have been enacted into Medicare,
20 medicaid, the Supplemental Security Income Program (SSI), the
21 Social Security Disability Insurance Program (SSDI), and with
22 respect to programs administered by the United States Department
23 of Labor, and the United States Department of Education.

1 (d) The federal Workforce Investment Act of 1998 (WIA);
2 (Public Law 105-220) redesigned major federal public employment
3 programs; and included a requirement that services for employers
4 and employees be centered in accessible, community-based
5 one-stop centers.

6 (e) The federal Ticket to Work and Work Incentives
7 Improvement Act of 1999, (Public Law 106-170) increased
8 opportunities for states to remove and minimize barriers to
9 employment for people with disabilities by improving access to
10 health care coverage available under Medicare and medicaid.

11 (f) Beginning February 1, 2002, the Social Security Ticket to
12 Work program (TTW) began a state-by-state phase in period
13 nationally, allowing SSI and SSDI beneficiaries to receive a
14 “ticket” from the Social Security Administration that can be
15 assigned for employment services to a wider pool of rehabilitation,
16 employment, or other employment support service providers. The
17 Ticket to Work program (TTW) is scheduled for implementation
18 in California in July 2003.

19 (g) The programs and consumer options provided under Public
20 Law 106-170 are based upon public policies that respect the rights
21 of consumers to control decisions related to health care,
22 rehabilitation, and employment within the framework of
23 independent living principles and guidelines that include, but are
24 not limited to, providing consumers of these services with an array
25 of choices to promote independence and financial stability.

26 (h) California took a significant step forward in removing
27 barriers to work for Californians with disabilities when it enacted
28 Chapter 820 of the Statutes of 1999 (Assembly Bill 155, introduced
29 by Assembly Member Migden, which has been referred to as the
30 “250% California Working Disabled Program” or “CWD”) under
31 which any employed individual who is disabled and whose
32 countable income, as determined pursuant to Section 14007.9 of
33 the Welfare and Institutions Code, does not exceed 250 percent of
34 the federal poverty level shall be eligible for Medi-Cal benefits,
35 subject to the payment of sliding-scale premiums set by the State
36 Department of Health Services. Two years after its implementation,
37 CWD program enrollment is just above 500, which is significantly
38 below budgeted projections.

39 (i) California received a “Medicaid Infrastructure Grant” (MIG)
40 that is expected to continue for a second year, and that allows the

1 State Department of Health Services to administer the California
2 Health Incentive Improvement Project with the assistance of a
3 project steering committee in order to bolster the state's efforts to
4 conduct outreach, research, and analysis related to the
5 implementation of Chapter 820 of the Statutes of 1999.

6 (j) California will have the opportunity to coordinate its activities
7 with privately funded initiatives to identify potential cost savings
8 that could be achieved if California adopted additional policies
9 available to the state through the federal Balanced Budget Act of
10 1997 and the Ticket to Work and Work Incentives Improvement
11 Act, including, but not limited to, raising the income standard,
12 changing rules related to disregarding or exempting resources,
13 providing adjustments to the amount of premiums paid on a sliding
14 scale, including adjustments based on the amount paid for other
15 health insurance, and providing an allowance for coverage for up
16 to 18 months in the case of loss of employment.

17 (k) The California Governor's Committee on Employment of
18 Disabled Persons, through its staff and volunteers, promotes in the
19 private and public sectors understanding and information on
20 employment supports and benefits for people with disabilities who
21 transition from benefits as the sole source of income to gainful
22 employment.

23 (l) *The state's experience with enrollment in the Medi-Cal 250%*
24 *California Working Disabled Program, or CWD, pursuant to*
25 *Section 14007.9 of the Welfare and Institutions Code, continues*
26 *in 2007 not to meet expectations of any of the parties. Therefore,*
27 *additional steps need to be taken to remove barriers to improve*
28 *the quality of life for participants enrolled in the program, a major*
29 *purpose of the changes proposed the act adding this subdivision.*

30 **SECTION 1.**

31 **SEC. 2.** Section 14007.9 of the Welfare and Institutions Code
32 is amended to read:

33 14007.9. (a) The department shall adopt the option made
34 available under Section 1902(a)(10)(A)(ii)(XIII) of the federal
35 Social Security Act (42 U.S.C. Sec. 1396a(a)(10)(A)(ii)(XIII). In
36 order to be eligible for benefits under this section, an individual
37 shall be required to meet all of the following requirements:

38 (1) His or her net countable income is less than 250 percent of
39 the federal poverty level for one person or, ~~if the deeming of~~
40 ~~spousal income applies to the individual, his or her net countable~~

1 ~~income is less than 250 percent of the federal poverty level for~~
2 ~~two persons: person. As authorized by Section 1902(r) of the Social~~
3 ~~Security Act (42 U.S.C. Sec. 1396a(r)), the income of a spouse shall~~
4 ~~be disregarded when determining eligibility or the amount of the~~
5 ~~premium.~~

6 (2) He or she is disabled under Title II of the Social Security
7 Act (Subch. 2 (commencing with Sec. 401), Ch. 7, Title 42 U.S.C.),
8 Title XVI of the Social Security Act (Subch. 16 (commencing with
9 Sec. 1381), Ch. 7, Title 42, U.S.C.), or Section 1902(v) of the
10 Social Security Act (42 U.S.C. Sec. 1396a(v)). An individual shall
11 be determined to be eligible under this section without regard to
12 his or her ability to engage in, or actual engagement in, substantial
13 gainful activity, as defined in Section 223(d)(4) of the Social
14 Security Act (42 U.S.C. Sec. 423(d)(4)).

15 (3) Except as otherwise provided in this section, his or her net
16 nonexempt resources, which shall be determined in accordance
17 with the methodology used under Title XVI of the federal Social
18 Security Act (42 U.S.C. Sec. 1381 et seq.), are not in excess of the
19 limits provided for under those provisions.

20 (b) (1) Countable income shall be determined under Section
21 1612 of the Social Security Act (42 U.S.C. Sec. 1382a), except
22 that *spousal income, as provided in paragraph (1) of subdivision*
23 *(a), and the individual's disability income, including all federal*
24 *and state disability benefits and private disability insurance, shall*
25 *be exempted. Resources excluded under Section 1613 of the Social*
26 *Security Act (42 U.S.C. Sec. 1382b) shall be disregarded.*

27 (2) Resources in the form of employer or individual retirement
28 arrangements authorized under the Internal Revenue Code shall
29 be exempted as authorized by Section 1902(r) of the Social Security
30 Act (42 U.S.C. Sec. 1396a(r)).

31 (3) *Resources that are above the limits referenced in paragraph*
32 *(3) of subdivision (a), but that were accumulated while the*
33 *individual was working and qualified for Medi-Cal under this*
34 *section, shall be exempted as authorized by Section 1902(r) of the*
35 *Social Security Act (42 U.S.C. Sec. 1396a(r)).*

36 (4) *Spousal resources up to the amount allowed in California*
37 *under the spousal impoverishment cap of the Medicare*
38 *Catastrophic Coverage Act, Section 1924 of the Social Security*
39 *Act (42 U.S.C. Sec. 1396r-5) shall be exempted as authorized by*

1 *Section 1902(r) of the Social Security Act (42 U.S.C. Sec.*
2 *1396a(r)).*

3 *(c) The retirement income received by individuals who qualify*
4 *for Medi-Cal under this section before 65 years of age and who*
5 *qualify for Medi-Cal at and after 65 years of age on the basis of*
6 *disability under this section, shall be exempt at and after 65 years*
7 *of age.*

8 *(d) (1) Individuals otherwise eligible under this section but*
9 *who are temporarily not working may elect to remain on Medi-Cal*
10 *under this section for up to 18 months, provided the individuals*
11 *continue to pay premiums during the temporary nonworking*
12 *period.*

13 *(2) Resources that were exempt under this section shall continue*
14 *to be exempt under any other Medi-Cal program where eligibility*
15 *is based on age, blindness, or disability.*

16 ~~(e)~~

17 *(e) Medi-Cal benefits provided under this chapter pursuant to*
18 *this section shall be available in the same amount, duration, and*
19 *scope as those benefits are available for persons who are eligible*
20 *for Medi-Cal benefits as categorically needy persons and as*
21 *specified in Section 14007.5.*

22 ~~(d)~~

23 *(f) Individuals eligible for Medi-Cal benefits under this section*
24 *shall be subject to the payment of premiums determined under this*
25 *subdivision. The department shall establish sliding-scale premiums*
26 *that are based on countable income, with a minimum premium of*
27 *twenty dollars (\$20) per month and a maximum premium of two*
28 *hundred fifty dollars (\$250) per month, and shall, by regulations,*
29 *annually adjust the premiums. Prior to adjustment of any premiums*
30 *pursuant to this subdivision, the department shall submit a report*
31 *of proposed premium adjustments to the appropriate committees*
32 *of the Legislature as part of the annual budget act process.*

33 ~~(e)~~

34 *(g) The department shall adopt regulations specifying the process*
35 *for discontinuance of eligibility under this section for nonpayment*
36 *of premiums for more than two months by a beneficiary.*

37 ~~(f)~~

38 *(h) In order to implement the collection of premiums under this*
39 *section, the department may develop and execute a contract with*
40 *a public or private entity to collect premiums, or may amend any*

1 existing or future premium-collection contract that it has executed.
2 Notwithstanding any other provision of law, any contract developed
3 and executed or amended pursuant to this subdivision is exempt
4 from the approval of the Director of General Services and from
5 the Public Contract Code.

6 ~~(g)~~

7 (i) Notwithstanding the rulemaking provisions of Chapter 3.5
8 (commencing with Section 11340) of Part 1 of Division 3 of Title
9 2 of the Government Code, the department shall implement,
10 without taking any regulatory action, this section by means of an
11 all-county letter or similar instruction. Thereafter, the department
12 shall adopt regulations in accordance with the requirements of
13 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
14 3 of Title 2 of the Government Code.

15 ~~(h)~~

16 (j) Notwithstanding any other provision of law, this section shall
17 be implemented only if, and to the extent that, the department
18 determines that federal financial participation is available pursuant
19 to Title XIX of the federal Social Security Act (42 U.S.C. Sec.
20 1396 et seq.).

21 ~~(i)~~

22 (k) Subject to subdivision (h), this section shall be implemented
23 commencing April 1, 2000.

24 ~~SEC. 2.~~

25 SEC. 3. If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.